

**REMARKS**

This Application has been carefully reviewed in light of the Office Action mailed February 8, 2006 ("Office Action"). At the time of the Office Action, Claims 1-13 were pending in the Application and the Examiner rejects Claims 1-13. Applicant amends Claims 1, 3, 5, and 8-12 and adds new Claims 14-20. As described below, Applicant believes all claims to be allowable over the cited references. Therefore, Applicant respectfully requests reconsideration and full allowance of all pending claims.

**Section 102 Rejections**

The Examiner rejects Claims 1-13 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,784,549 issued to Reynolds et al. ("*Reynolds*"). Applicant respectfully traverses this rejection of Claims 1-13 and requests favorable action in this case.

Independent Claim 1, as amended, recites:

A method of simulating system conditions at a kernel-level, comprising:

intercepting an operating system call from a software application at a kernel-level;

determining that a first operating system call was called from a process that was identified for failure emulation for the testing of the software application;

consulting user loaded rules and returning results to the first operating system call according to the user loaded rules to result in the testing of the software application; and

calling a native operating system service routine associated with a second operating system call, the testing of the software application in response to the first operating system call not effecting the calling of the native operating system service routine associated with the second operating system call.

"A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 2 U.S.P.Q.2d 1051, 1053 (Fed. Cir. 1987); MPEP § 2131.

In addition, "[t]he identical invention must be shown in as complete detail as is contained in the . . . claims" and "[t]he elements must be arranged as required by the claim." *Richardson v. Suzuki Motor Co.*, 9 U.S.P.Q.2d 1913, 1920 (Fed. Cir. 1989); *In re Bond*, 15 U.S.P.Q.2d 1566 (Fed. Cir. 1990); MPEP § 2131 (*emphasis added*). Whether considered alone or in combination with any other cited references, *Reynolds* does not disclose, either expressly or inherently, each and every element of Claim 1.

For example, Applicant respectfully submits that *Reynolds* does not disclose, teach, or suggest "determining that a first operating system call was called from a process that was identified for failure emulation for the testing of the software application," as recited in Claim 1. In a wholly unrelated field, *Reynolds* discloses a GUI-based operating system having "automatic failure recovery through a special "fail safe" mode." (Column 2, lines 21-23). Specifically, *Reynolds* discloses that "the fail-safe mode of the operating system provides GUI capabilities and, in particular, provides many of the same graphical tools as are provided by the normal mode of the operating system." (Column 2, lines 30-34). "With it, the user can take advantage of the power of GUI technology even when running diagnostic and repair programs." (Column 2, lines 36-38). Thus, *Reynolds* merely "provides a method for operating a computer system in a failure recovery mode." (Column 2, lines 57-58). "[F]or example, the user can run diagnostic tools, debuggers, and repair programs that are graphically based and are therefore easier and more intuitive to use than their character-based predecessors." (Column 3, lines 58-62). *Reynolds* is not at all related to "failure emulation for the testing of the software application" and does not disclose, teach, or suggest "determining that a first operating system call was called from a process that was identified for failure emulation for the testing of the software application," as recited in Claim 1.

As other examples, Applicant respectfully submits that *Reynolds* does not disclose, teach, or suggest "consulting user loaded rules and returning results to the first operating system call according to the user loaded rules to result in the testing of the software application" and "calling a native operating system service routine associated with a

second operating system call, the testing of the software application in response to the first operating system call not effecting the calling of the native operating system service routine associated with the second operating system call,” as recited in Claim 1. As discussed above, *Reynolds* merely “provides a method for operating a computer system in a failure recovery mode.” (Column 2, lines 57-58). Accordingly, for reasons analogous to those discussed above, the recited features and operations are completely absent from the disclosure of *Reynolds*.

For at least these reasons, Applicant respectfully requests reconsideration and allowance of Claim 1, together with Claims 2-4 that depend from Claim 1.

The Examiner also relies on *Reynolds* to reject independent Claims 5, 8, and 12. Applicant respectfully submits, however, that *Reynolds* does not disclose, teach, or suggest each and every element of Applicant’s independent Claims 5, 8, and 12. For example, Claim 5 recites “identifying one or more processes to a kernel-level module for which to emulate failures for the testing of one or more software applications” and “running the one or more processes to result in the testing of the one or more software applications, the running of the one or more processes not effecting the overlapping performance of one or more native operating system service routines.” As another example, Claim 8 recites “logic encoded in a storage medium and operable when executed to . . . determine that a first operating system call was called from process that was identified for failure emulation for the testing of the software application; consult user loaded rules and returning results to the first operating system call according to the user loaded rules to result in the testing of the software application; and call a native operating system service routine associated with a second operating system call, the testing of the software application in response to the first operating system call not effecting the calling of the native operating system service routine associated with the second operating system call.” As still another example, Claim 12 recites “a kernel-level module operable to . . . consult the one or more rules associated with the process identifiers and generate a return result according to the one or more rules to result in the testing of the software application” and “call a native

operating system service routine associated with a second operating system call, the testing of the software application in response to the first operating system call not effecting the calling of the native operating system service routine associated with the second operating system call.” Thus, for reasons analogous to those discussed above with regard to Claim 1, Applicant respectfully submits that *Reynolds* does not disclose, teach, or suggest each and every element set forth in Applicant's independent Claims 5, 8, and 12.

For at least these reasons, Applicant respectfully requests reconsideration and allowance of Claims 5, 8, and 12, together with Claims 6-7, 9-11 and 24 that depend from Claim 1.

**New Claims 14-20 are Allowable**

New Claim 14 has been added and depends on Claim 1. New Claims 14-17 and 18-20 have been added and depend on Claims 4 and 12, respectively, which Applicant has shown above to be allowable. Claims 14-20 are patentable at least because of their respective dependencies and further because they recite additional features not disclosed, taught, or suggested in the prior art. Accordingly, Applicant respectfully requests consideration and allowance of new Claims 14-20.

**CONCLUSION**

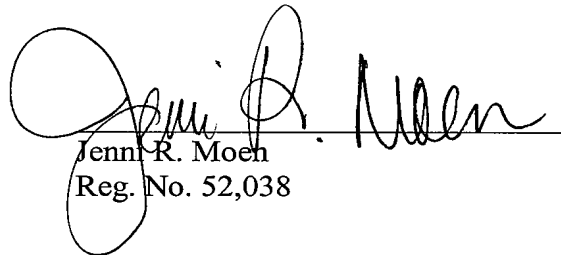
Applicant has made an earnest attempt to place this case in condition for allowance. For the foregoing reasons, and for other reasons clearly apparent, Applicant respectfully requests full allowance of all pending claims.

If the Examiner feels that a telephone conference would advance prosecution of this Application in any manner, the Examiner is invited to contact Jenni R. Moen, Attorney for Applicant, at the Examiner's convenience at (214) 953-6809.

Applicant believes that no fees are due. However, the Commissioner is hereby authorized to charge any fees or credit any overpayment to Deposit Account No. 02-0384 of Baker Botts L.L.P.

Respectfully submitted,

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